

REMARKS

Reconsideration and allowance of this application are respectfully requested in view of the discussion below.

Applicants invention has been discussed in the Amendment filed April 15, 2003, and November 1, 2002, each of which are incorporated herein by reference with the following additional comments being made in light of the present rejection.

Claims 45-47, 54-57 and 63-66 have been rejected under 35 U.S.C. 102 as anticipated by the newly cited reference to Levin U.S. Patent No. 3,866,444, as detailed at item 4 on pages 2-4 of the patent Office Action. Claims 48-52 and 58 have been rejected under 35 U.S.C. 103 as unpatentable over Levin '444 in view of Mercuri U.S. Patent No. 5,712,007, as indicated at item 6 on pages 4 and 5 of the patent Office Action. Additionally, claims 53 and 59-62 have been rejected under 35 U.S.C. 103 as unpatentable over Levin in view of Mercuri '007 and further in view of Mintz U.S. Patent No. 5,855,231 for the reasons indicated at item 7 on pages 5 and 6 of the patent Office Action.

Applicants respectfully traverse these rejections on the grounds that independent claim 45 provides structure which is not shown or disclosed or made obvious by the references or any combination of the references which would be obvious to one of ordinary skill in the art.

In the statement of the rejection of independent claim 45, the Examiner indicates that Levin discloses elastic thread wrapped in yarn where the number of turns of yarn per length of the elastic thread is limited. Applicants respectfully submit that Figure 5 of Levin shows the standard wrapping of a strand of rubber using a first wrapping of threads in one first direction and using a second wrapping in an opposite direction. Columns 3, lines 21 to 31 of Levin were indicated by the Examiner as containing these limitations. (Applicants submit that there is no indication in Levin and particularly at column 3, lines 21 to 31 concerning limiting the number of turns of yarn for a given length of elastic thread.)

The specification of Levin states that when extended, the diameter of the rubber decreases and the covering strands become further spaced apart. The example shown in Levin does not indicate that the stretching limit results from the outer threads being placed in tension. Instead the stretching limit of the elastic thread itself is what is determinative of the limit of the stretch. That is, the yarn wrapping of Levin will accommodate any stretch which is allowed by the elastic thread and not by the tension on the outer threads.

With respect to claim 46, Applicants disagree with the Examiner's contention concerning item number 10 in Figure 1 of Levin. This item 10 refers to the entire assembly. The mesh fabric referred to at column 2, line 39

is the combination of longitudinal and circumferential members 11 and 12 which form an open work mesh net as referenced at column 2, line 64. Additionally, Applicants submit that the Examiner is also incorrect with respect to the comments concerning claim 54. The reference to Levin describes an open net, which would not be impermeable to food products.

With respect to the rejection of claims 57, 64 and 65-66, Applicants submit that the longitudinal threads shown in Levin are secured between circumferential members. They are not shown or described as being secured to the outer surface of a knitted tube, as claimed.

It is also submitted that the remaining dependent claims remain distinct from Levin because they incorporate the subject matter of independent claim 45 concerning the "limited number of turns".

With respect to the obviousness rejections of 35 U.S.C. 103, none of the secondary references add anything toward meeting the claim limitations of independent claim 45 particularly with respect to the "limited number of turns". Thus, even if the references are combined, this feature, which is part of independent claim 45, is still not available.

Claim 55 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite with respect to an insufficient antecedent basis for "said first tubular portion". In response to this rejection Applicants have amended claim 55 so that it refers to "said knitted tube" which has antecedent basis in claim

54 from which claim 55 depends.

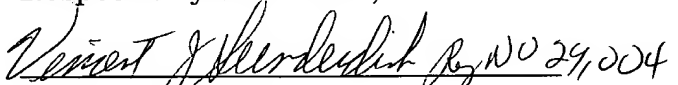
Therefore in view of the distinguishing features between the claimed invention and the references which features are not shown or disclosed or made obvious by the references or their combinations and in view of the changes to the claim structure to obviate the rejections under 35 U.S.C. 112, Applicants respectfully request that this application containing independent claim 45 and dependent claims 46-66 be allowed and be pass to issue.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #10414.50147US).

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